

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**SIGNIFICANT NPDES PERMITS, WDRs,
AND REGIONAL BOARD ACTIONS**

JUNE 8, 2005

APPENDED TO EXECUTIVE OFFICER REPORT

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SANITARY SEWER OVERFLOW STATISTICS (Updated through May 31, 2005)

SEWAGE COLLECTION AGENCY	SYSTEM SIZE ^B		NO. OF SEWAGE SPILLS (LISTED BY FISCAL YEAR (FY) - JULY 1 THROUGH JUNE 30)				SPILLS PER 100 MILES (LISTED BY FY)				SPILL VOLUME 2004-05 ^A	
	Miles	MGD	01-02	02-03	03-04	04-05 ^A	01-02	02-03	03-04	04-05 ^A	GAL	GAL/MG ^D
ORANGE COUNTY:												
EL TORO WD	55	2.2	3	1	3	3	5.5	1.8	5.5	5.5	10,375	13.9
EMERALD BAY SERVICE DISTRICT	6	0.09	0	0	0	1	0.0	0.0	0.0	16.7	350	11.1
IRVINE RANCH WD	36	2.0	0	0	0	0	0.0	0.0	0.0	0.0	0	0.0
LAGUNA BEACH, CITY OF	95	2.4	10	27	8	11	10.5	28.4	8.4	11.6	3,005	3.8
MOULTON NIGUEL WD	530	13.0	2	1	2	4	0.4	0.2	0.4	0.8	12,875	3.0
SAN CLEMENTE, CITY OF	179	4.5	6	7	2	5	3.3	3.9	1.1	2.8	3,173	2.1
SAN JUAN CAPISTRANO, CITY OF	100	3.4	0	0	1	2	0.0	0.0	1.0	2.0	1,635	1.4
SANTA MARGARITA WD	546	10.7	12	4	5	6	2.2	0.7	0.9	1.1	12,024	3.3
SOUTH COAST CWD	132	4.0	5	8	7	4	3.8	6.1	5.3	3.0	2,080	1.6
TRABUCO CANYON WD	43	0.72	0	0	1	2	0.0	0.0	2.3	4.7	1,614	6.7
RIVERSIDE COUNTY:												
EASTERN MWD	421	9.5	1	3	7	0	0.2	0.7	1.7	0.0	0	0.0
ELSINORE VALLEY MWD	80	2.0	0	0	1	3	0.0	0.0	1.3	3.8	35,677	53.0
MURRIETA MWD	25	0.5	E	E	1	0	E	E	4.0	0.0	0	0.0
RANCHO CA WD	71	2.9	2	0	1	2	2.8	0.0	1.4	2.8	2,400	2.5
SAN DIEGO COUNTY:												
BUENA SANITARY DISTRICT	84	1.9	0	2	1	2	0.0	2.4	1.2	2.4	335	0.5
CARLSBAD MWD	214	7.2	15	6	6	7	7.0	2.8	2.8	3.3	2,342	1.0
CHULA VISTA, CITY OF	400	16.0	6	3	1	5	1.5	0.8	0.3	1.3	2,940	0.6
CORONADO, CITY OF	53	3.8	5	2	5	0	9.4	3.8	9.4	0.0	0	0.0
DEL MAR, CITY OF	30	1.1	2	7	1	0	6.7	23.4	3.3	0.0	0	0.0
EL CAJON, CITY OF	198	9.1	2	3	0	3	1.0	1.5	0.0	1.5	2,115	0.7
ENCINITAS, CITY OF	118	4.1	2	6	1	5	1.7	5.1	0.8	4.2	54,695	39.7
ESCONDIDO, CITY OF	350	10.8	14	3	2	4	4.0	0.9	0.6	1.1	14,600	4.0
FAIRBANKS RANCH COMM SERV DIST	15	0.21	0	0	0	0	0.0	0.0	0.0	0.0	0	0.0
FALLBROOK PUBLIC UTILITY DIST ^C	72	2.0	17	22	9	10	23.6	30.6	12.5	13.9	15,825	23.6
IMPERIAL BEACH, CITY OF	84	2.2	1	14	2	8	1.2	16.7	2.4	9.5	1,040	1.4
LA MESA, CITY OF	155	5.8	12	3	4	3	7.7	1.9	2.6	1.9	8,575	4.4
LEMON GROVE, CITY OF	69	2.4	9	4	4	3	13.0	5.8	5.8	4.3	49,800	61.5

SANITARY SEWER OVERFLOW STATISTICS (Updated through May 31, 2005)

SEWAGE COLLECTION AGENCY	SYSTEM SIZE ^B		NO. OF SEWAGE SPILLS [LISTED BY FISCAL YEAR (FY) - JULY 1 THROUGH JUNE 30]				SPILLS PER 100 MILES (LISTED BY FY)				SPILL VOLUME 2004-05 ^A	
	Miles	MGD	01-02	02-03	03-04	04-05 ^A	01-02	02-03	03-04	04-05 ^A	GAL	GAL/MG ^D
SAN DIEGO COUNTY (continued):												
LEUCADIA CWD	185	4.2	5	6	1	5	2.7	3.2	0.5	2.7	5,020	3.5
NATIONAL CITY, CITY OF	97	5.1	0	1	2	1	0.0	1.0	2.1	1.0	1,500	0.9
OCEANSIDE, CITY OF, WTR UTIL DEP	446	13.0	17	23	22	12	3.8	5.2	4.9	2.7	5,204	1.2
OLIVENHAIN MWD	16	0.39	1	2	0	3	6.3	12.5	0.0	18.8	1,725	13.1
OTAY MWD	86	1.4	0	3	1	0	0.0	3.5	1.2	0.0	0	0.0
PADRE DAM MWD	150	5.1	4	3	3	1	2.7	2.0	2.0	0.7	33,000	19.3
PAUMA VALLEY COMM SERVICE DIS	8	0.07	0	0	0	0	0.0	0.0	0.0	0.0	0	0.0
POWAY, CITY OF	170	4.0	1	5	3	0	0.6	2.9	1.8	0.0	0	0.0
RAINBOW MWD	54	0.74	2	2	6	2	3.7	3.7	11.1	3.7	1,725	7.0
RAMONA MWD	83	1.3	5	2	2	1	6.0	2.4	2.4	1.2	1,500	3.4
RANCHO SANTA FE COMM SERV DIST	52	0.44	1	1	0	2	1.9	1.9	0.0	3.9	1,570	10.7
SAN DIEGO CO, PUBLIC WORKS	380	11.0	4	11	2	2	1.1	2.9	0.5	0.5	800	0.2
SAN DIEGO, CITY OF, MWWD	2,894	170	226	193	115	96	7.8	6.7	4.0	3.3	213,099	3.7
SOLANA BEACH, CITY OF	52	1.2	2	1	6	0	3.8	1.9	11.5	0.0	0	0.0
USMC BASE, CAMP PENDLETON	194	3.1	18	23	14	10	9.3	11.9	7.2	5.2	66,950	65.5
US NAVY	123	4.0	24	12	11	13	19.5	9.8	9.0	10.6	4,391	3.3
VALLECITOS WD	202	6.1	4	5	4	5	2.0	2.5	2.0	2.5	177,320	86.2
VALLEY CENTER MWD	48	0.32	0	3	1	0	0.0	6.3	2.1	0.0	0	0.0
VISTA, CITY OF	198	6.5	4	4	7	8	2.0	2.0	3.5	4.0	53,765	24.8
WHISPERING PALMS COMM SERV DIS	17	0.26	1	1	0	0	5.8	5.8	0.0	0.0	0	0.0
REGION 9 TOTAL	9615	363	445	427	275	254					805,044	
AVERAGE ¹							4.6	4.4	2.9	2.6		10
STANDARD DEVIATION ²							5.0	7.0	3.4	4.4		19
MEDIAN ³							2.4	2.4	2.0	2.4		3

^A Includes available preliminary data for July 2004 through May 2005, and may not include all spills less than 1,000 gallons that did not enter surface waters or storm drains during this time.

^B As of June 2003.

^C Does not include 11 SSOs in 2000-2001 which occurred from private property but are the responsibility of the Fallbrook PUD according to its own existing policies at the time.

^D Volume of spills for the period in gallons divided by the amount conveyed for the period in million gallons

^E Included with Eastern Municipal Water District

¹ The average is the sum of all values divided by the number of values.

² In a normally distributed set of values, 68% of the values are within one standard deviation either above or below the average value.

³ The median is the middle value in a set; half the values are above the median, and half are below the median.

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	WATERBODY	IMPACT (Acres) ¹	MITIGATION	CERTIFICATION ACTION ²
5/5/05	North County Transit District	Santa Margarita River Bridge Replacement and Second Track Project	Replace existing single track bridge with a double track bridge; construct a new 0.8 mile second main track, and upgrade and realign the existing Fallbrook passing track.	Santa Margarita and San Luis Rey Rivers	Wetland (P): 0.025, (T): 0.112; Streambed (P): 0.209, (T) 0.430	Restoration of temporary impacts, and the purchase of 1 acre of Arundo Removal Credits from the Mission Resource Conservation District.	Conditional
5/16/05	Frank Varasano and Morgan Dene	979/983 Scott Street Dock	Refurbish existing pier, reducing the number of pilings from 33 to 16, and the revetment of 60 feet of shoreline.	San Diego Bay	Ocean/Bay (P): 0.02	None	Low Impact
5/20/05	City of Santee	Town Center Community Park	Development of a multi-faceted community park and the relocation, restoration, and enhancement of the creek which travels through the center of the site.	Woodglen Vista Creek	Wetland (P): 0.27; Streambed (P): 0.82	Onsite restoration and replanting of the creek area with native seed mixes.	Conditional
5/27/05	California Department of Transportation	Culvert Modification Project	Lining of an existing steel pipe, construction of a headwall, and placement of rock slope protection on State Route 74 at post mile 1.3	San Juan Creek	Streambed (P): 0.001, (T): 0.001	Mitigation includes 0.003 acres of streambed and 0.002 acres of riparian area.	Low Impact

1. Wetland refers to vegetated waters of the U.S. and streambed refers to unvegetated waters of the U.S. (P) = permanent impacts. (T) = temporary impacts.
2. Low impact certification is issued to projects that have minimal potential to adversely impact water quality. Conditional certification is issued to projects that have the potential to adversely impact water quality, but by complying with technical conditions, will have minimal impacts. Denials are issued when the projects will adversely impact water quality and suitable mitigation measures are not proposed or possible. Time expired refers to projects that may proceed due to the lack of an action by the Regional Board within specified regulatory timelines. Withdrawn refers to projects that the applicant or Regional Board have withdrawn due to procedural problems that have not been corrected within one year.

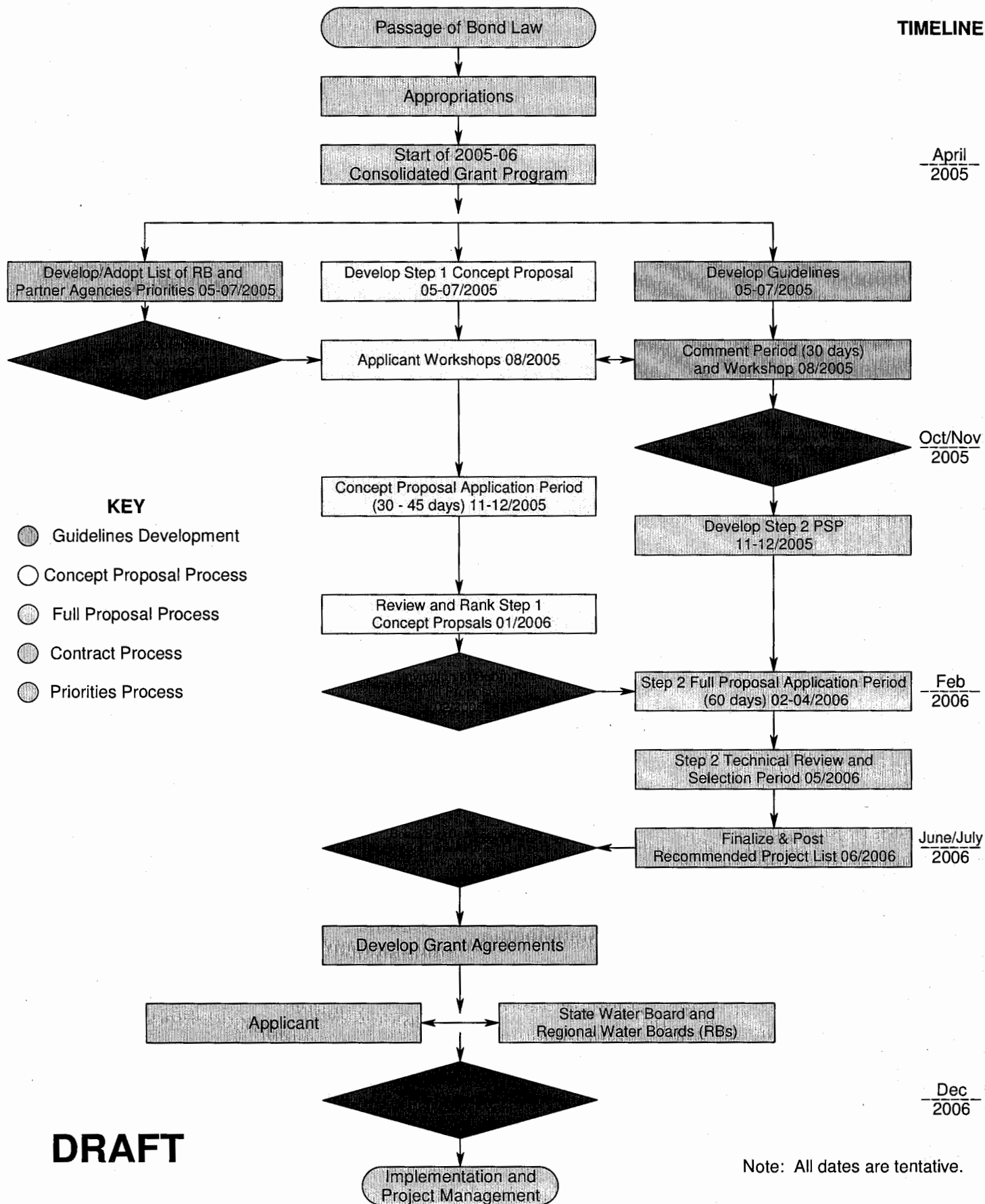
State Water Resources Control Board (State Water Board)

Division of Financial Assistance

2005-06 Consolidated Grants

ATTACHMENT B-3

TIMELINE





California Regional Water Quality Control Board ATTACHMENT B-4 San Diego Region



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
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Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

TO: Barbara Evoy, Chief
Division of Financial Assistance
State Water Resources Control Board
Sacramento, California

FROM: 
John H. Robertus
Executive Officer
SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

DATE: May 31, 2005

SUBJECT: ADOPTION OF RESOLUTION NO. R9-2005-0133, A RESOLUTION
SUPPORTING AN EPIDEMIOLOGICAL STUDY AND MICROBIAL SOURCE TRACKING
ANALYSIS AT DOHENY STATE PARK BEACH AND THE LOWER SAN JUAN CREEK
WATERSHED

Enclosed is a copy of the subject resolution adopted by the San Diego Regional Board on May 11, 2005. This resolution formally expresses the Regional Board's strong support for an epidemiological study and source analysis at Doheny State Park Beach.

The City of Dana Point has taken the lead in the development of the proposal for the study and analysis, and the San Diego Regional Board supports the City's efforts to acquire funding from a number of sources. It is possible that in the near future some funding may be available through a supplement environmental project resulting from an enforcement action by the Regional Board.

In the Board's consideration of the resolution at the May 11, 2005, the Regional Board heard a number of interested parties express support for the overall need for an epidemiological study and source analysis for Doheny Beach and the lower San Juan Creek watershed. Also, the Board heard that the proposed study and analysis should add greatly to the new knowledge gained about sources of bacteria from the recent studies of Mission Bay. In addition, one speaker requested the Regional Board consider support for a similar study of Aliso Beach in light of the bacteria data recently developed for Aliso Creek.

If you need more information about the proposed study and analysis or the adopted resolution, please don't hesitate to call me at CALNET 734-2987.

Enclosure

California Environmental Protection Agency

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

RESOLUTION NO. R9-2005-0133

A RESOLUTION SUPPORTING AN EPIDEMIOLOGICAL STUDY AND
MICROBIAL SOURCE TRACKING ANALYSIS AT
DOHENY STATE PARK BEACH AND THE LOWER SAN JUAN CREEK
WATERSHED

Whereas, The San Diego Regional Water Quality Control Board ("Regional Board") recognizes the need for a comprehensive Epidemiological Study and Microbial Source Tracking Analysis of the bathing waters at Doheny State Park Beach ("Doheny Beach") and the waters of the lower San Juan Creek Watershed that affect the quality of waters supporting body contact activities in the Doheny Beach area; and

Whereas, The State of California Clean Beach Task Force has identified Doheny State Beach as the state's number one priority for cleanup, based on the high number of beach postings for bacterial contamination and the large number of beach visitors. This area of the coastline has been placed on the Clean Water Act Section 303(d) List for bacterial impairment requiring a Total Maximum Daily Load analysis. The area of Doheny Beach has also been identified as a Critical Coastal Area by the California Coastal Commission. In addition, the proposed Study and Analysis is a top priority in South Orange County Integrated Regional Water Management Plan established by the County of Orange and 11 participating municipalities; and

Whereas, The City of Dana Point has proposed such an Epidemiological study and Microbial Source Tracking Analysis for the bathing waters of Doheny Beach at total of \$2.5M. The Epidemiological study is estimated at \$1.5M and Microbial Source Tracking Analysis at \$1.0M; and

Whereas, While the City of Dana Point has proposed a contribution of \$500,000 to the project, no other specific sources of funding have yet been identified. Other agencies and entities will be encouraged to consider contributing funds. Possible funds from the State Water Resources Board could come from a number of sources totaling up to a maximum of \$2.0M.


Whereas, A number of beach locations in the San Diego Region would benefit from investigations similar to the study and analysis proposed at Doheny Beach. The data developed from the Doheny Beach Study and Analysis may very well be applicable at other regional beaches that are impacted by inland waters; and

Whereas, The proposed Study and Analysis has support from governmental agencies, advocacy groups, and the public. A number of entities have been requested to consider monetary support for the proposed Study and Analysis.

Now therefore be it resolved, that:

1. The Regional Board enthusiastically supports the proposed Epidemiological Study and Microbial Source Tracking Analysis at Doheny State Park Beach and the lower San Juan Creek Watershed.
2. The Regional Board formally requests the State Water Resources Control Board to consider funding all, or part, of the proposed Study and Analysis.

This resolution was adopted by the California Regional Water Quality Control Board, San Diego Region, at its regular meeting on May 11, 2005.


JOHN H. ROBERTUS
Executive Officer

5/16/2005
Date

CITY OF DANA POINT



COPY - JHR
5/31
file
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

CITY COUNCIL

May 23, 2005

2005 MAY 26 P 1:33

Wayne Rayfield
Mayor

Lara Anderson
Mayor Pro Tem

Russell Chilton

Diane L. Harkey

James V. Lacy

Chairman John Minan and Board Members
San Diego Regional Water Quality Control Board
9174 Sky Park Court
Suite 100
San Diego, CA 92124-1324

Dear Chairman Minan and Board Members:

Thank you so much for supporting the City of Dana Point in our efforts to clean up Doheny State Park Beach. Host to nearly 2 million visitors annually, the beach was posted for 334 days in 2004 due to excessive bacteria concentrations.

Our proposed concurrent microbial source tracking investigation and epidemiological study has also received support from the EPA and our partnering efforts with your staff and EPA staff will provide additional "good science" applicable to other sites both in California and nationwide. We also expect these studies will help us effectively develop the appropriate Total Maximum Daily Load (TMDL) for the 162 square mile San Juan Creek Water Shed and better mitigate the sources of bacteria.

Please help us in our efforts to obtain a portion of the remaining \$2M we need for this study. We are applying for state funding through the SWRCB for clean-up and abate funds, SEP funds and bond funds. As you know, the City is contributing \$500,000 of our own general fund to further this effort.

We must also recognize the dedicated commitment and support of John Robertus in bringing this item to your attention expeditiously.

Sincerely,

Wayne Rayfield
Mayor

Workshop on landfill draws foes, supporters

By J. Harry Jones
UNION-TRIBUNE STAFF WRITER

May 20, 2005

ESCONDIDO – Proponents and foes of the long-proposed Gregory Canyon landfill once again butted heads yesterday at a workshop hosted by a regional water board, one of the few agencies left that could stop the construction of the huge project.

Supporters say the landfill is much-needed and will be completely safe, while detractors warn that the project threatens the purity of the nearby San Luis Rey River and is an environmental disaster waiting to happen.

Approval from the San Diego Regional Water Quality Control Board is one of the last obstacles facing developers of the landfill. It would be built in Pala, about 3½ miles east of Interstate 15 on 320 acres off state Route 76.

In March, the board concluded that the water-quality permit application for the landfill was complete, meaning all requirements had been met. That decision triggered a 140-day processing period that included yesterday's public hearing.

Carol Tamaki, a water board spokeswoman, said the board could make a final decision this fall on whether to issue permits for the privately owned dump.

The road that the proposed landfill has traveled thus far has been as curvy as the highway it would sit near.

In 1994, voters countywide approved a measure that in effect rezoned land in Gregory Canyon to allow for a solid-waste facility.

Last year, Proposition B, an effort to permanently block the construction of the landfill, was sponsored primarily by the Pala Band of Mission Indians. The measure, the most expensive in county history in terms of campaign spending, was overwhelmingly defeated. The Pala Indian Reservation's casino is on Route 76 about one mile east of the proposed landfill.

Gregory Canyon Ltd., the partnership developing the landfill that has already spent more than \$20 million on the project, still needs the water board's approval and that of the county's Air Pollution Control District before construction can begin. It also faces a lawsuit scheduled for trial this summer.

Yesterday, representatives of the developers tried to assure the more than 100 people who attended the workshop that every possible measure will be taken to prevent damage to the environment.

Gary Lass, an environmental consultant hired by the developers, said the waste will be contained "in an impregnable bathtub" composed of a seven-layer liner made of plastic, clay and other materials. Even if some leakage does occur, he said, containment and treatment systems will be in place to prevent contaminants from reaching the river.

Even if major rainstorms and an earthquake happened at the same time, and a nearby aqueduct ruptured, he said, the landfill's drainage system could handle it.

Opponents of the landfill, who outnumbered supporters by at least a 2-1 ratio at the workshop, couldn't have disagreed more.

"It defies all logic to build this dump," 3rd District County Supervisor Pam Slater-Price said. "This would be a facility in the worst place you can imagine."

Paul Rosenfeld, an environmental science and engineering professor at UCLA, speaking on behalf of the environmental group Riverwatch, asked: "Why in the world would we put a landfill above a potable aquifer? It's really crazy! Even the best liners fail. It's going to fail. Always. I'm never wrong."

But Bill Harris, representing Citizens for Environmental Solutions, said the liner "far exceeds protection systems in place at nearly every other landfill throughout California if not the nation. It will have the most advanced monitoring systems ever installed. . . . I am convinced that it will work."

■ J. Harry Jones: (760) 737-7579; jharry.jones@uniontrib.com

Find this article at:

<http://www.signonsandiego.com/news/northcounty/20050520-9999-1mi20greg.html>

☐ Check the box to include the list of links referenced in the article.

Editions of the North County Times Serving San Diego and Riverside Counties

Wednesday, June 1, 2005

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Print Page

Wednesday, June 1, 2005

Last modified Thursday, May 19, 2005 11:26 PM PDT

Public hears both sides of Gregory Canyon debate

By: TOM PFINGSTEN - Staff Writer

ESCONDIDO ---- In what one local environmental group dubbed "the most important meeting of the year," 150 people gathered in the Escondido City Council chambers Thursday in a showdown over the proposed Gregory Canyon landfill.

The public meeting was hosted by the Regional Water Quality Control Board to discuss how local water sources would be affected by the landfill. The board must approve the project and issue a set of "tentative waste discharge requirements" before construction can begin.

Proponents painted a picture of a safe facility where any pollutants would be contained by a highly advanced liner and monitoring well system.

Opponents, including Oceanside Mayor Jim Wood and San Diego County Supervisor Pam Slater-Price, said that to allow a dump to be built so close to a river would be an irreversible decision, calling it too risky and unpredictable.

As a landfill site, Slater called Gregory Canyon "the worst place you can imagine ---- it is in the path of the water as it comes from the source to the river."

"It defies all logic to build a dump on the edge of an aquifer," she said.

Representatives of Gregory Canyon Ltd. began the meeting with a presentation of the safeguards they said would keep contaminants confined like water in a bathtub. They said the landfill's liner would be impenetrable, and that hazardous materials and liquids would be banned.

The proposal calls for the solid-waste landfill to be built near the San Luis Rey River about three miles east of Interstate 15 and two miles west of the Pala Indian Reservation. The proposed facility, which would accept 1 million tons of garbage per year for 30 years, has raised questions about increased traffic on Highway 76 and air and water pollution.

Gregory Canyon Ltd. received approval of its solid-waste permit from the California Integrated Waste Management Board in December.

Voters in November defeated Proposition B, a measure sponsored by the Pala Band of Mission Indians that would have reversed the landfill's approval. It was struck down by 65 percent of San Diego County voters, but some later criticized the measure's text as confusing.

Opponents of the landfill, which include the city of Oceanside, the Pala Band of Mission Indians, RiverWatch and the Sierra Club, have recently expressed hope that either a permit denial or a lawsuit can prevent Gregory Canyon Ltd. from building.

Everett DeLano, an attorney representing RiverWatch in a lawsuit challenging the environmental impact report filed by Gregory Canyon Ltd., reminded the water quality board that the integrity of the claims made by Gregory Canyon Ltd. is under scrutiny in court.

"It's important for the board to know about (the case) because, among other things, Gregory Canyon relies very heavily upon the EIR in its analysis that this project's going to be OK," he said.

"This board's mandate is to ensure that there's no impairment to the uses of surface water and groundwater," DeLano continued. "There's a much higher standard here than, 'Well, you get an A for effort.' "

The lawsuit DeLano is arguing was brought by RiverWatch, the city of Oceanside and the Pala band against Gregory Canyon Ltd. and the county's Department of Environmental Health. The first hearing in the case is scheduled for June 24.

Among those speaking in favor of the landfill was Gregory Canyon Ltd. permitting lawyer Bill Hutton, who pointed out that the amount of solid waste generated in San Diego County in 2020 is projected to be 6.5 million tons per year, up from 3.7 million in 2002.

If the Gregory Canyon landfill is not built, Hutton said, "more distant and more expensive alternatives would have to be sought."

Even if something were to leak into the groundwater, Hutton said Wednesday, the substance would be trapped and treated by 13 monitoring wells placed "downstream" at the mouth of the canyon.

"If anything were to escape from the landfill, it has to get somewhere to cause a problem," he said. "In the event that something was to get past the barrier, it won't travel."

Insisting that the landfill will not pollute the San Luis Rey River, Hutton described the dump's liner as "the most advanced landfill liner system in the state."

"It's a seven-foot-thick liner system with five different containment layers," he said. "It also has three separate systems to collect anything that might get through that liner before it gets to the groundwater, all of which would be channeled into on-site treatment system."

Representatives of Gregory Canyon Ltd. said the developer has agreed to taking out a \$100 million environmental insurance policy on the site to address anything disastrous that could happen in the decades after the dump is closed and no longer earning money.

Barry Martin, Oceanside's water utilities manager, said the unforeseeable risks posed by the landfill are too many for the San Luis Rey River, which supplies about 20 percent of his city's water.

"We need to keep chemicals out of the aquifer," Martin told the water quality board Thursday. "We're hoping, one day, to get 60 percent of our water supply from (the San Luis Rey)."

Wood, the Oceanside mayor, asked the board to deny Gregory Canyon's water-quality permit, a decision he referred to as "very important for us and the quality of life of our residents, their children and their grandchildren, there's no doubt about it."

"I'm not against landfills, but as I hear from the experts ---- both sides ---- there's confusion regarding issues and concerns," Wood said. "When there's conflict, I'm going to side with the citizens and the quality of life."

The water quality board is one of a handful of agencies still to approve the Gregory Canyon project. Others include the local Air Pollution Control District and the Army Corps of Engineers.

Contact staff writer Tom Pfingsten at (760) 731-5799 or tpfingsten@nctimes.com.

Press Release



OFFICE OF THE GOVERNOR

GAAS:201:05
FOR IMMEDIATE RELEASE
05/18/2005

Governor Schwarzenegger Issues Proclamation on Tribal Gaming Policy

Governor Arnold Schwarzenegger today issued the following Proclamation describing his general policy on specified matters related to tribal gaming:

PROCLAMATION

BY THE GOVERNOR OF THE STATE OF CALIFORNIA

WHEREAS, the federal Indian Gaming Regulatory Act of 1988 (IGRA) authorizes federally recognized Indian tribes to conduct class III gaming on Indian lands, as defined by IGRA, to the extent such games are permitted by state law, and pursuant to a gaming compact negotiated between a tribe and the State; and

WHEREAS, IGRA requires the State to negotiate in good faith for the conclusion of tribal-state gaming compacts with Indian tribes that request such negotiations when those tribes have eligible Indian lands located in the State; and

WHEREAS, in 1998, California voters approved Proposition 5, a statutory measure designed to allow for the operation of slot machine and house banked card gaming by California Indian tribes on Indian lands in accordance with federal law; and

WHEREAS, in 2000, California voters approved Proposition 1A, a measure that amended the California Constitution to authorize the Governor to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines, lottery games and banked and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law; and

WHEREAS, during the campaigns to approve Propositions 5 and 1A, California voters were assured that approval of these measures would not result in tribal casinos being located in urban areas; and

WHEREAS, the constitutionality of tribal exclusivity over the forms of gaming authorized by Proposition 1A is premised upon the limitation of these activities to Indian lands; and

WHEREAS, there are over 100 federally recognized Indian tribes in California and many of those tribes already have Indian lands within the meaning of IGRA that are eligible for class III gaming; and

already have Indian lands within the meaning of IGRA that are eligible for class III gaming; and

WHEREAS, California Government Code section 12012.25, subdivision (d), designates the Governor as the state official with authority to negotiate and execute tribal gaming compacts on behalf of the State; and

WHEREAS, California Government Code section 12012.25, subdivisions (c) and (e), provide that tribal-state gaming compacts negotiated by the Governor are subject to ratification by the Legislature; and

WHEREAS, in 1999, Governor Gray Davis concluded, and the Legislature ratified, compacts with 57 tribes, in anticipation of the voters' approval of Proposition 1A; and

WHEREAS, since 1999, seven additional tribes have concluded compacts that have been ratified by the Legislature, seven tribes have amended the terms of their 1999 compacts, which amendments have been ratified by the Legislature, and one tribe with Indian lands in an urban area concluded a compact that was not ratified; and

WHEREAS, in the general election of 2004, two initiative measures, Propositions 68 and 70, that would have expanded gaming activities in urban areas were placed before the California voters; and

WHEREAS, Proposition 68 was defeated with 83.8 percent of the electorate voting against it and Proposition 70 was defeated with 76.3 percent of the electorate voting against it; and

WHEREAS, events demonstrate increasing public concern over the location and expansion of tribal gaming enterprises in California; and

WHEREAS, the State of California exercises jurisdiction over land within the territorial boundaries of the State, except to the extent such jurisdiction is expressly reserved by, or ceded to, the federal government or is preempted by operation of federal law; and

WHEREAS, IGRA generally prohibits Indian gaming on lands acquired by the federal government in trust for Indian tribes after October 17, 1988, the effective date of IGRA; and

WHEREAS, exceptions exist that authorize class III gaming on lands acquired in trust after October 17, 1988, (1) if the lands are taken into trust as part of (i) a settlement of a land claim, or (ii) the restoration of lands for an Indian tribe that is restored to federal recognition, (2) if the lands are taken into trust as part of the initial reservation of an Indian tribe acknowledged by the Secretary of Interior under the federal acknowledgement process, or (3) if the Secretary of Interior determines that a gaming establishment on lands acquired after October 17, 1988, would be in the best interest of the Indian tribe and its members, would not be detrimental to the surrounding community, and the Governor of the State in which the land is situated concurs in the Secretary's determination that such land can be used for gaming (a Section 20 concurrence); and

WHEREAS, an increasing number of Indian tribes are seeking to take new land into trust for purposes of conducting class III gaming activities pursuant to the provisions of IGRA, often in urban areas; and

WHEREAS, it is in the best interests of all Californians that there be a clear statement of policy identifying the Governor's positions with respect to Indian gaming on newly acquired trust land located in urban areas.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, do hereby proclaim the following statements as my general policy on the specified matters related to tribal gaming:

1. I shall oppose proposals for the federal acquisition of lands within any urbanized area where the lands sought to be acquired in trust are to be used to conduct or facilitate gaming activities.
2. I shall decline to engage in negotiations for tribal-state gaming compacts where the Indian tribe does not have Indian lands eligible for class III gaming.

not have Indian lands eligible for class III gaming.

3. I shall consider requests for a gubernatorial concurrence under section 20(b)(1)(A) of IGRA, that would allow a tribe to conduct class III gaming on newly acquired land, only in cases where each of the following criteria is satisfied:

- a) The land that is sought for class III gaming is not within any urbanized area.
- b) The local jurisdiction in which the tribe's proposed gaming project is located supports the project.
- c) The tribe and the local jurisdiction demonstrate that the affected local community supports the project, such as by a local advisory vote.
- d) The project substantially serves a clear, independent public policy, separate and apart from any increased economic benefit or financial contribution to the State, community, or the Indian tribe that may arise from gaming.

4. In order to ensure adherence to the foregoing policies, I will direct the Governor's Office of Planning and Research (OPR) to provide to the Attorney General and the following departments, boards, and commissions copies of every notice of a tribal application to have land taken into trust by the federal government:

- a) The Department of Parks and Recreation
- b) The Department of Water Resources
- c) The Department of Fish and Game
- d) The Native American Heritage Commission
- e) The Department of Transportation
- f) The California Highway Patrol
- g) The Air Resources Board
- h) The Department of Conservation
- i) The appropriate regional office of the Regional Water Quality Control Board.

I will further direct the Resources Agency, Environmental Protection Agency, and Health and Human Services Agency to distribute a copy of the notice to any of their respective departments that may be able to provide input on a particular application. The departments referenced above will be directed to promptly review the notices and provide comments to the Legal Affairs Secretary for a determination as to whether any comment on an application to have land taken into trust should be provided to the Bureau of Indian Affairs. The boards and commissions listed above will be invited to provide comments on said notices to the Legal Affairs Secretary.

5. I shall support legislative ratification and Department of Interior approval of each compact or amended compact negotiated by my administration, including the one compact for a casino in an urban area that is not yet ratified by the Legislature.

6. For purpose of this Proclamation, "urbanized area" means the definition of that term as defined in Public Resources Code section 21071, subdivision (a). A list of the cities meeting this definition as of the date of this Proclamation is attached hereto.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 18th day of May, 2005.

ARNOLD SCHWARZENEGGER
Governor of California

